

Ushering in a New Indian Corporatism

The company law in India is a composite class of many compartments just like in a train where there are different classes suiting a comfort level of a variety of passengers. It has been a long journey for the law which has been travelling since 1956 through the various corridors and grids of companies, and it has been amended as many 26 times. This long train is the corporate life-link and has always been looked upon with fervour and favour by all kinds of companies ranging from small, medium, big both inland and foreign. No doubt the Companies Act, 1956 is the epitome not only of Corporate India, but the World Inc. International business entities watch with interest and are very eager with anticipation as to whether the law of the land suits them in carrying out their operations and how the rules and regulations are for starting operations in the country.

Today, with the global multinational chain of companies in India, it is much to the credit of the policy makers who have devoted much of the discussion and deliberations with varied interests, whether it be shareholders, stakeholders, investors, promoters, and the corporate at large, as to what they expect from the law and what the law expects from them. The amendments that took place so far were on a piecemeal basis catering to different subject matters, but the current amendment under the name “*Companies Bill 2012*” is truly a sparkling in the twilight that the Lok Sabha has passed the Bill in its wisdom and it awaits clearance from the Rajya Sabha. Slimming by downsizing, compacting by re-characterisation, shifting from principle-based to rule-based law, reduction of governmental control to emphasis on self-regulation through corporate internal control, adoption of best international practices, legalising corporate governance practices, effective enforcement of law through machinery and mechanism and addressing appropriately the concerns of small businesses are the paradigm of the new Companies Bill, 2012.

It is a major leap forward for the corporate world, reform process and inclusive growth agenda in India. The new law is a step forward towards globalisation

and is a successful attempt to meet the needs of the changing environment. It is progressive and futuristic in nature, duly envisaging the technological and legal developments. The Minister of Corporate Affairs Shri Sachin Pilot, while steering the long-awaited passage of the Bill in Lok Sabha on December 18, 2012, had rightly said: “*The aim is to protect the interests of employees and small investors while encouraging firms to undertake social welfare voluntarily instead of imposing that through ‘inspector raj’ and make India an attractive and safe investment destination.*”

One of the major highlights of the proposed new legislation is that specified companies will have to necessarily spend 2% of their average net profits made in the immediately preceding three financial years towards Corporate Social Responsibility (CSR). The enactment of Companies Bill 2012 will make India the only country that has mandated CSR spend through statutory route. “*Private companies, while maximising their growth, also have responsibility towards society besides equitable and sustainable growth of the country,*” Shri Pilot rightly said while moving the Bill.

It might be a ponder to predict the outcome of the Bill, 2012 yet, but the Government’s conscious efforts in bringing a thorough change are going to redefine and usher in a new Indian Corporatism in line with the best international principles and practices. New Concepts and definitions, redefining corporate governance and democracy, paving way for shareholders’ activism, ensuring proper role and responsibilities for auditors, directors and whistle-blowing mechanism and suits under class action are the highlights which should usher in a new Indian Corporatism.

In this issue of the journal, we have highlighted many aspects of the Companies Bill, 2012 from the perspective of professionals besides other features. So read on...

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